

Illinois Commerce Commission
Revision to 83 Ill Adm. Code Part 265
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This document represents a summary of the Comments received by Staff through the end of November 2001. The right column is Staff's response to each comment. If a comment was accepted by Staff, the comment has been incorporated in the draft of the rule sent to the Commission as the First Notice Rule.

Party	Comments	Staff Response
ComEd	<ol style="list-style-type: none"> Specific mandatory duties set forth in the Act should be similarly set forth in part 265. Would allow a party to look just one place for the requirements. Remove mandatory reporting requirements for probable violations. Part 265 requires utilities to "locate" their facilities. The rule should indicate that existing case law indicates that "locate" does not include depth. 265.50 should contain language from the Act specifying what information must be provided when an emergency locate request is made. 265.50 should include language to indicate what the penalty is for requesting an emergency locate when none exists. Current rule does not allow the negotiation of a penalty. 265.110 should be modified as per #2 above and be replaced with a requirement that excavators report damage or dislocation of utility facilities or face a penalty of up to \$2,500. Rule should be made explicit that parties may submit information to staff and may intervene in any subsequent formal Commission proceedings. Make explicit that proceedings at the Commission under part 265 will not prejudice parties in subsequent court litigation. Maintain confidentiality of materials submitted to the Staff and Advisory Committee. 	<ol style="list-style-type: none"> Not accepted. It is a long standing policy in constructing rules that the law is not restated in the rule unless some clarification is necessary. Accepted in part. Staff has removed most mandatory reporting except in cases where there is imminent danger to public safety or where someone has been injured or killed in connection with the incident. Accepted Not accepted. This would repeat language in the Act and JULIE will take the necessary information when they are contacted. Not accepted. Same as #1 above. Not accepted. Staff does not want to be seen as "making deals behind closed doors". This could damage the credibility of the program if one entity was seen as getting off easier than another. Not accepted. This is already a requirement of the Act and does not need repeating in the rule. Accepted. Not Accepted. Staff does not oppose this language. However, Staff does not believe the addition of the language to the rule would keep any information from being disclosed pursuant to a Freedom of Information Act request.

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ComEd	<p>11. 265.410(a) should be modified to allow 21 days to file a responsive pleading</p> <p>12. 265.410(b) should be modified to allow 28 days to answer data requests.</p> <p>13. 265.410(c) should be modified to provide that the pre-hearing conference is 21 days after the initiation of the proceeding.</p> <p>14. 265.410(d) should be modified to include intervening parties.</p>	<p>10. Accepted. Staff and the Advisory Committee will maintain all documents in confidence. However, Staff may be required to disclose information as the result of a Freedom of Information Act request.</p> <p>11. Not Accepted. Proceedings before the Commission are going to be handled in an expedited manner that requires shorter schedules.</p> <p>12. Not Accepted. See #11</p> <p>13. Not Accepted. See #11</p> <p>14. Accepted</p>
Illinois Power	<p>1. Section 265.40 - miscellaneous clarifying changes to language in draft</p> <p>a. 265.140(a) should be modified as follows: “take reasonable action to <u>identify</u> the location of underground utility facilities or CATS facilities in and near the construction area. Reasonable actions include the performance of a site inspection prior to excavation to verify person is at the correct location of excavation activities, verify locate markings, and to the best of one’s ability, check for unmarked utility lines. If clear evidence of unmarked utility or CATS lines exists, each person shall comply with the requirements of 220 ILCS 50/11 (i).”</p> <p>b. 265.140(d) should be modified as follows: “provide notice not more than 14 days nor less than 48 hours in advance of the start of the work to the known operators of existing underground utility facilities in and near the construction area and request such operators to mark <u>in accordance with the requirements as listed in the Illinois Underground Utility Facilities Damage Prevention Act (220 ILCS 50)</u> the locations of <u>existing</u> underground utility facilities in the field.”</p> <p>c. 265.140(e) should be modified as follows: “expose existing underground utility facilities at points of indicated interference in the construction area by hand digging where such exposure <u>is necessary for the protection of existing underground utility facilities</u></p>	<p>1. a). Accepted b). Accepted c). Accepted</p>

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Illinois Power	<p><u>or if requested by the operators of existing underground utility facilities to ensure the safety of the public.”</u></p> <ol style="list-style-type: none"> 2. IP recommends that Staff consider adding an additional provision to address how long a mark is good for, the need for re-marks, and procedure in the event the marks are indistinguishable. 3. In section 265.50, IP recommends that Staff consider clarifying what is meant by “to the extent possible” in provision b). One possible solution is to add the phrase “unless an immediate safety hazard exists.” 4. IP also recommends changing the term “lines” to “facilities” in 265.50 (c) to better reflect all potentially affected assets. 5. IP recommends removing the term “if necessary” in 265.50(c) (5). This allows too much discretion on the part of the individual. 6. In 265.100 IP recommends changing the 30-day reporting requirement to 60-days to better allow a utility to gather information regarding suspected violations. 7. In 265.110, IP recommends Staff reconsider the dollar limits that trigger reporting duties. The \$1000 amount provided in provision a) 2) would result in imposing a substantial burden on utilities to report relatively minor incidents. IP suggests a dollar amount of \$5000. Furthermore, IP recommends removing the language of “any gas main.” Again, this requirement could result in a substantial burden to report relatively minor incidents. Similarly, provision a) 4) provides a dollar limit that is too low. 8. Staff should consider increasing the number of incidents to prevent burdensome reporting of minor incidents in 265.110 (a)(7). 9. IP also recommends changing the reporting requirement from 30-days to 60-days in 265.110. 	<ol style="list-style-type: none"> 2. Not Accepted. Staff believes this may be helpful but would like additional input from all parties before proposing any language for the rule. 3. Accepted 4. Accepted 5. Accepted 6. Not Accepted. Staff believes that with a reporting period longer than 30 days, accurate and complete information will be harder to collect from the other parties involved. Reporting parties will be able to supplement their reports if additional information comes to light. 7. Accepted. Dollar amount removed 8. Accepted. Requirement removed 9. Not accepted. See #6 above

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Illinois Power	<p>10. In 265.200(b), IP recommends that Staff consider whether the factor of “ability to pay the penalty” is necessary.</p> <p>11. IP recommends providing clarifying language regarding the maximum penalty allowed as defined in the Underground Utility Facilities Damage Prevention Act, 220 ILCS 50/11(a).</p>	<p>10. Not accepted. The requirement to consider this criteria is imposed by the Act.</p> <p>11. Accepted.</p>
Grundy County Highway Department on behalf of Association of County Engineers	<p>1. Section 265.10 – Definitions “Hand Digging”. Suggest the definition be “the use of hand-operated tools such as shovels, spades, picks, bars, etc., or automatically powered hand devices designed to be held in the hand of the operator.” When the “hand digging” method is used should be covered in the other sections like you have already done in Section 265.40(e).</p> <p>2. Section 265.30 - Location Records</p> <p>Suggests development and access to “Record Drawings” or “As-Built Drawings”. These drawings would be prepared during construction of new underground utility facilities and would record actual distances from physical objects such as the edge of pavement; back of curb and gutter, etc., to the underground facilities. The drawings would also record the approximate depth of the underground facilities. Access to these drawings would help locators, contractors, and right-of-way owners in determining where the underground utilities are located. If this was incorporated in the rule, excavation work which damages an underground facility, but in which the underground utility facilities operator did not provide record drawings of installed facility to right-of-way or easement owner, should be determined to not be in violation of this Act.</p> <p>3. Section 265.40, modify Subsection (d) as follows: “... start of work to State-Wide One-Call Notice System for the construction area.”</p> <p>4. Section 265.50, first sentence. Reference to Section 265.30 should be Section 265.40.</p> <p>5. 265.50, first sentence. Modify to “... requirements of Section 265.40 (a)-(e), provided that such person shall:”</p>	<p>1. Accepted</p> <p>2. Not Accepted. Implementation of this suggestion at this time would be very burdensome. Staff suggests that if this is an important factor, the parties work toward implementation in the future</p> <p>3. Accepted</p> <p>4. Accepted</p> <p>5. Accepted</p>

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	<p>6. Modify 265.50 (b) to "... after providing notice to the State-Wide One-Call Notice System before beginning excavation.</p> <p>7. Modify 265.50 (c) (4) Modify to "... around known underground utility lines;"</p>	<p>6. Accepted</p> <p>7. Accepted.</p>
Marathon Ashland Pipe Line on behalf of the Liquids Pipeline Industry	<p>1. Lack of enforcement on the utility side of the process. The proposed rule only addresses accidents after the fact, as such failure to mark by the utilities is not treated equally with other violations</p> <p>2. Add the definition of excavation from the Act</p> <p>3. Use the definition of underground utility facilities from the act and do not add "CATS" to the text.</p> <p>4. Add a definition for excavator.</p> <p>5. Add a definition for operator.</p> <p>6. Add a section in the rule for repeated acts that willfully violate the Act (220 ILCS 50/11 a and b.</p> <p>7. Add a section in the rule for repeated acts of notice of emergency locate requests that do not meet the definition of emergency.</p> <p>8. Add a section in the rule to address positive response as in section 10 of the Act</p> <p>9. Add a section in the rule to address failure of an operator to join the state-wide one call notice system as in paragraph 11, section f of the act.</p>	<p>1. Not Accepted. Staff disagrees that the rule treats utilities and contractors different. All person's are free to file reports of violations with the Commission. Once a report is received all will be treated the same whether it is a failure to mark report, or damage to a facility.</p> <p>2. Accepted</p> <p>3. Accepted</p> <p>4. Accepted</p> <p>5. Accepted</p> <p>6. Not Accepted. The Act and the rule already indicates that history of noncompliance is a factor the Commission must consider. Staff will levy higher penalties against repeat offenders</p> <p>7. Not Accepted. See #6 above</p> <p>8. Not Accepted. Section 10 of the act already addresses positive response. Staff did not see a need to add any clarifying language in the rule.</p> <p>9. Not Accepted. This is already covered in the Act. Staff did not see a need to add any clarifying language in the rule.</p>
JULIE	<p>1. The question involves whether oil or gas field gathering companies are required to be members of JULIE. JULIE contends the existing language in Section 265.20c addresses the issue. This section was deleted form the revised rule.</p>	<p>1. Staff does not believe the section deleted from the rule addressed membership in JULIE.</p>

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NICOR	<ol style="list-style-type: none"> 1. Suggests mandatory reporting be deleted 2. In lieu of mandatory reporting, NICOR favors providing ICC with data regarding damage to NICOR facilities as a means of tracking the effectiveness of the enforcement program. 3. NICOR believes the ICC enforcement process should include a "warning" for first time offenders or maybe also for excavators who do a large volume of work during the year but only have a very few number of violations. 4. Volume of work performed without a violation should be considered when determining amount of fine. 5. 30 day period for reporting incidents is too short. 	<ol style="list-style-type: none"> 1. Accepted in part. See staff response to ComEd #2 2. Accepted. Staff may request damage information from utilities but will not include any requirement in the rule. 3. Accepted. In determining fines, staff will consider the history of non-compliance and will likely issue a warning for first time offenders unless other circumstances dictate otherwise. 4. Will Consider Further. Staff has not yet developed its matrix for determining fines. At this point it is not clear how this factor could be considered. 5. Not accepted. See staff response to Illinois Power #6.
Laser Construction	<ol style="list-style-type: none"> 1. Mandatory reporting of suspected violations should include parameters for reporting on facilities operators who fail to mark their facilities 2. Incident report form should be modified to accept both excavator and utility company reporting information. 	<ol style="list-style-type: none"> 1. Not accepted. Staff has limited mandatory reporting to instances where there is imminent danger to public safety or where someone has been injured or killed in connection with the incident. 2. Accepted
Peoples Gas	<ol style="list-style-type: none"> 1. The draft Part 265 should be revised in order to clarify that the State-Wide One-Call Notice System is not used in regard to excavating activity within the City of Chicago. Rather, persons excavating within the City of Chicago are to contact the Chicago Utility Alert Network ("CUAN") and owners and operators of underground utility facilities in Chicago are to respond to notifications from CUAN. 2. Similarly, the draft of Part 265 should be revised in order to clarify that none of the penalty provisions of 220 ILCS 50/11, except 220 ILCS 50/11 (h), apply within the City of Chicago. 3. The name of Part 265 should be changed from "Protection of Underground Public Utility Facilities" to "Protection of Underground Utility Facilities". The Illinois Underground Utility Facilities Damage 	<ol style="list-style-type: none"> 1. Staff has modified the rule to indicate that except for part 265.100, the rule is not applicable to excavators operating within the city of Chicago. 2. Accepted 3. Accepted

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Peoples Gas	<p>Prevention Act (the "Act") applies to all underground utility facilities, not just facilities of public utilities.</p> <p>4. In Section 265.10, in the definition of "clear evidence", the word "may" should be changed to "shall" and a comma should be inserted after the word "include" and also after the word "to". The use of the word "shall" in the definition of "clear evidence" would make it clear that "clear evidence" is not to be limited to "the visual evidence of an unmarked utility line, knowledge of the presence of a utility line, or faded marks from previous marking of a utility line."</p> <p>5. Also, in Section 265.10, in the definition of "clear evidence" and in the remainder of Part 265, the terms "utility line" and "CATS lines" should both be changed to "underground utility facilities" since that term is specifically defined in 220 ILCS 50/2.2. The purpose of the Act is to prevent damage to all underground utility facilities, not simply "utility lines" and "CATS lines".</p> <p>6. In Section 265.10, the definition of "hand digging" is not actually a definition, but rather a description of the types of digging methods allowed.</p> <p>7. Section 265.10 should also include a specific definition of "vacuum excavation methods" since like hand digging, vacuum excavation methods are also specifically allowed by other sections of Part 265.</p> <p>8. In Section 265.10, the definition of "interfere" is incorrect in the context of the Act. The purpose of the Act is to prevent damage to underground utility facilities by any person who excavates. <u>See</u> for example 20 ILCS 50/4. The proposed definition of "interfere" deals only with the location of underground facilities, not at all with excavating. It should be changed to address excavating, not the location of underground facilities.</p> <p>9. Section 265.10 should also specifically define the term "notice area", a term which is used in Section 265.60 h).</p>	<p>4. Accepted in part. The word "is" was used instead of "shall".</p> <p>5. Accepted</p> <p>6. Accepted. Definition revised</p> <p>7. Accepted</p> <p>8. Accepted. Definition revised</p> <p>9. Accepted</p>

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Peoples Gas	<p>10. Section 265.30 a) 1) should be deleted in its entirety. Section 265.30 a) requires underground utility facility operators to maintain records showing the location of all of their utility facilities. Section 265.30 a) 1) provides an exception to this requirement for some “relatively minor facilities”. The intent of the Act is to prevent damage to underground utility facilities by any person who excavates. The best way to ensure that underground utility facilities are not damaged is to have them properly marked. Reliable marking of underground utility facilities is helped by operators of underground utility facilities having records showing the location of the facilities. Under Section 265.30 a) 1), each utility facility operator in the State of Illinois is free to determine that some facilities are “relatively minor” and need not be recorded. Those facilities are more likely to be marked improperly and damaged.</p> <p>11. In Section 265.40 a), in the second sentence, the word “the” should be inserted between the words “verify” and “person”.</p> <p>12. In Section 265.40 a), the third sentence should be revised in order to clarify that the requirements of that sentence do not apply to persons excavating within the City of Chicago. The third sentence of Section 265.40 a) states “If clear evidence of unmarked utility or CATS lines exists, each person shall comply with the requirements of 220 ILCS 50/11 (i)”. However, the requirements in 220 ILCS 50/11 (i) related to an excavator who observes clear evidence of unmarked facilities are only applicable to an excavator who has made a notification through the State-Wide One-Call Notice System. Since persons excavating inside the City of Chicago are required to make a notification through CUAN, not the State-Wide One-Call Notice System, those requirements of 220 ILCS 50/11 (i) do not apply to them.</p> <p>13. Section 265.40 should be revised so as to require excavators to contact either the State-Wide One-Call Notice System or CUAN, as appropriate, but not the operators of underground utility facilities. A requirement that excavators contact individual operators of underground utility facilities would be contrary to the requirements of 220 ILCS 50/4 and the intent of the Act.</p>	<p>10. Accepted</p> <p>11. Accepted</p> <p>12. See Response to #1 and #2 above</p> <p>13. See Response to #1 and #2 above</p>

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Peoples Gas	<p>14. Section 265.40 should be revised to include the requirement found in 220 ILCS 50/4 (c), which states that if practical, excavators should use white paint, flags, or stakes to outline the dig site. Clear examples of when such marking is practical and when it is not practical should also be included so as to give excavators some guidance.</p> <p>15. The first paragraph of Section 265.50 should be revised by replacing the words “underground utility facilities operator” with the word “person”. The requirement of 220 ILCS 50/6 to contact either the State-Wide One-Call Notice System for excavations outside the City of Chicago or CUAN for excavations inside of the City of Chicago applies to all persons, not just to operators of underground utility facilities.</p> <p>16. Section 265.50 a) should be revised in order to clarify that a person is required to contact the State-Wide One-Call Notice System in regard to excavations outside of the City of Chicago and CUAN for excavations inside of the City of Chicago.</p> <p>17. In Section 265.60 a), the words “privately-owned public utilities” should be changed to “underground utility facility owners” since the intent of the Act is to prevent damages to all underground utility facilities, not simply the underground utility facilities of privately-owned public utilities.</p> <p>18. For the same reason, in Section 265.60 c), the words “underground public utility facilities” should be changed to “underground utility facilities”.</p> <p>19. Section 265.100, “Voluntary Reporting of Suspected Violations”, should be revised to reflect the fact that the penalty provisions of Sections 11 (a), (b), (d), (e), and (f) of the Act do not apply to excavations in the City of Chicago. There are no penalties provided in the Act regarding excavating or marking facilities in Chicago (except for removing or altering markings – See 220 ILCS 50/11 (h)). Therefore, there is no reason to report violations of the Act in Chicago to the Commission, except for violations involving the removal or altering of markings.</p>	<p>14. Will consider Further. Staff believes this would be helpful but would like additional input from all parties before proposing any language for the rule.</p> <p>15. Accepted</p> <p>16. See Response to #1 and #2 above</p> <p>17. Accepted</p> <p>18. Accepted</p> <p>19. See Response to #1 and #2 above</p>

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Peoples Gas	<p>20. Section 265.110, "Mandatory Reporting of Suspected Violations", should be deleted in its entirety. Requiring mandatory reporting of the type of occurrences listed in Section 265.110 would be inefficient because it would inundate ICC staff with numerous reports of minor violations.</p> <p>21. In Subparts C and D, (Sections 265.200 through 265.310), the words "probable violation" should be replaced with the word "violation" since the function of the ICC Staff and the Advisory Committee should be to determine whether a violation has occurred, not whether a "probable" violation has occurred. A person should be subject to a penalty only if he has violated the Act, not if he has "probably" violated the Act.</p> <p>22. Section 265.200 b) should be revised to clarify that none of the penalty provisions of 220 ILCS 50/11, except 220 ILCS 50/11 (h), apply within the City of Chicago. The other penalties do not apply within the City of Chicago because in order to be subject to those penalties, an entity must have the duty to contact or respond to a contact from the State-Wide One-Call Notice System.</p> <p>23. Subpart E (Sections 265.400 through 265.410) should be revised in order to clarify what entity is responsible for prosecuting a case at the Commission involving a violation of the Act.</p> <p>24. Section 265.410 a) should be revised in order to clarify whether the respondent has to file an answer or some other "responsive pleading".</p> <p>25. In each of the incident reports, all references to "JULIE" should be replaced with references to "JULIE or CUAN" since CUAN is the proper entity to contact for excavations within the City of Chicago.</p>	<p>20. Accepted in part. See response to ComEd #2.</p> <p>21. Accepted</p> <p>22. See Response to #1 and #2 above</p> <p>23. Not Accepted. The Commission has the enforcement authority so the Commission is responsible for prosecuting the case. No language is necessary</p> <p>24. Accepted</p> <p>25. See Response to #1 and #2 above</p>
United Cities Gas Co.	<p>1. 265.10, under the definition of "Clear Evidence" the use of faded locate marks can be used as a means of determining if a utility is present. While this method is usable, in no way should the reference of faded marks be construed to mean a utility is actually at the location as marked. Errors in marking do occur, as well as changes in the scope or nature of the work from that previously done.</p>	<p>1. Accepted.</p>

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United Cities Gas Co.	<p>in the scope or nature of the work from that previously done.</p> <p>2. Add definitions for "Excavator" and "Person" be included.</p> <p>3. 265.30(2), UCG interprets this to read that if we have pipe in easement or at a tap station site, then we would not have to have to keep records of that piping. UCG does not feel that is the intent and should be modified or deleted. There are locations where one utility may cross the lands of another utility. Facilities within those areas should be able to be located.</p> <p>4. 265.40(a) If a person is going to perform excavation work, why is it necessary to first verify if utilities are present and if they were marked correctly or not marked at all. The steps should be 1) Mark the proposed excavation area with white marking paint or flags, 2) Contact the One-Call center with the necessary information, 3) Wait the required time, 4) note the positive response of utilities NOT in the work area as defined under Section 265.60 (j), and 5) dig with care and respect the locate marks.</p> <p>5. 265.40(c) The inclusion of "visually inspecting the excavations" conflicts with the hand-dig requirement stipulated within the tolerance zone. This presently implies I can dig with whatever piece of equipment I desire, as long as someone is standing there watching.</p> <p>6. 265.40(d) All locate request should be made through the One-Call Center for record keeping and verification that the proper utilities have been contacted. United Cities Gas Company does not accept locate request directly to our offices.</p> <p>7. 265.40(e) The law requires hand digging within the tolerance zone whether requested by the utility or not. Hand digging is "reasonably necessary for the protection of existing underground utility facilities."</p> <p>8. 265.40(f) The utility involved should be the one to direct how and where its facilities need to be supported, not the contractor /</p>	<p>2. Accepted</p> <p>3. Accepted</p> <p>4. Accepted in part. The requirements of this section (now renumbered as 265.40(b)) take place after the area has been marked by the utilities. The purpose of this section is to require the excavator to look around before he begins digging to make sure he is in the right place and to see if there is any obvious signs that a utility did not mark its facilities. The phrase "verify locate marks" was removed because it was ambiguous.</p> <p>5. Not Accepted. The Act was rewritten and it does not appear to require hand digging in the tolerance zone for non-emergency excavation (see 220 ILCS 50/4(b)).</p> <p>6. Accepted</p> <p>7. Not Accepted. See #5 above</p> <p>8. Not Accepted. The Act allows excavators to make the determination on how facilities will be supported unless otherwise agreed to by the owner or operator of the facilities. (see 220 ILCS 50/4(e))</p>

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United Cities Gas Co.	<p>excavator.</p> <p>9. 265.50, Maintenance work is not an emergency and should not be included under this section. Maintenance work can be scheduled the same as any other work. The definition of what constitutes an emergency should be included.</p> <p>10. 265.110(a)(7) Who is responsible to keep records of the number of hits by an excavator? Is the number of hits per utility, or by the excavator? (Bob's Excavation can hit the water line twice, the gas line twice, the sewer line twice and so forth). In addition, since we as a utility dig around our lines more than any other company, we are often time's the excavator who most damages our facilities. Will we be held accountable for damages to our own lines, by our own crews?</p>	<p>9. Accepted</p> <p>10. Accepted. This section has been removed.</p>
Ameritech	<p>1. Reporting of violations under 265.110 should be voluntary</p> <p>2. Reporters of violations under part 265 should be immune from any future civil action based upon the making of a report or supplying information to the Commission</p> <p>3. Language should be added to confirm that any ICC action under section 11 of the act in no way effects the rights and remedies of any entity under sections 9 and 13 of the Act.</p> <p>4. Language should be added to the rule to provide that any findings of the ICC's review process are inadmissible as evidence in any civil action brought under the Act..</p>	<p>1. Accepted in part. See response to ComEd #2</p> <p>2. Not Accepted. This is not provided for in the law and cannot be provided in a rule.</p> <p>3. Not Accepted. Language is not necessary.</p> <p>4. Not accepted. Staff does not believe the addition of the language to the rule would keep any information from being disclosed pursuant to a Freedom of Information Act request and subsequently being used any way a party sees fit.</p>
MidAmerican Energy	<p>1. Modify the definition of "Clear Evidence" to be consistent with the Illinois Rules of Civil Procedure.</p> <p>2. Standard industry practice is to use the term "horizontal location 18 inches either side of the underground facility". Definition of Tolerance zone should be modified to reflect this practice.</p> <p>3. Insert "owner or" in 265.10 so it reads ...and any owner or operator</p>	<p>1. Not accepted. The purpose of the definition was to provide clarity to the phrase "clear evidence" used in the Act.</p> <p>2. Not Accepted. The Act uses "feet" as the unit of measure.</p> <p>3. Accepted</p>

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MidAmerican Energy	<p>of underground utility facilities...</p> <ol style="list-style-type: none"> 4. Recommend miscellaneous changes to 265.40 to be consistent with 220 ILCS 50/4 5. 30 day timeframe in 265.100 may not provide enough time to compile and submit all documentation 6. Requirement to report 2 or more hits in any one month by any one person may be burdensome on large utilities as the utilities often cause damage to other's, or their own, facilities more than twice per month. 7. MEC recommends that the rule direct that any bylaws established by the Advisory Committee establish a term limit and rotation among various types of utility representatives. 	<ol style="list-style-type: none"> 4. Accepted 5. Not Accepted. See response to Illinois Power #6 6. Accepted. 7. Not Accepted. Staff agrees that these are things the Advisory Committee may want to consider in their bylaws but does not believe the rule should specify them.
Comments During Workshop	<ol style="list-style-type: none"> 1. Mandatory reporting in 265.110 should be deleted because it would be burdensome to staff and the utility companies, may sour good working relationships with some contractors. 2. 30 day reporting period in 265.110 is too short 3. Mandatory reporting requirements for utilities in 265.110 with no parallel requirements for contractors leads to a perceived lack of enforcement for utility violations of the Act. 	<ol style="list-style-type: none"> 1. Accepted 2. Not Accepted. See response to Illinois Power #6 3. Not Accepted. Mandatory requirements largely removed.
Questions asked, but not answered during workshop	<ol style="list-style-type: none"> 1. Is a hit on multiple utilities at a single location one violation? 2. Will ICC "violator database" be available to the public? 3. If a facilities operator uses a contract locator to locate its facilities and the locator fails to locate the facilities within 48 hours, who will the Commission consider as the violator? 4. Will the Commission hold the prime contractor or sub-contractor responsible for any violations of the Act? 	<ol style="list-style-type: none"> 1. At present, Staff cannot think of a scenario where the violation depends on the number of facilities that were hit at a certain location. If an excavator fails to call Julie and hits 5 utilities' facilities at one location, the violation was not calling JULIE. It does not matter how many facilities were hit. 2. No. All information received by Staff will be held as confidential. However,

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Party	Comments	Staff Response
	responsible for any violations of the Act?	<p>this does not mean that staff could not be forced to provide information in response to a Freedom of Information Act request.</p> <p>3. The Commission will hold the utility responsible for failing to mark <u>its</u> facilities.</p> <p>4. The person responsible for any violation of the Act that involves excavation is the person performing the excavation. ("Person" as used in this response has the same definition as used in the Act)</p>